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17 **UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

18 National Fair Housing Alliance, Inc., et al.,) Case No. C07-3255 - SBA
 19 Plaintiffs,)
 v.) **JOINT CASE MANAGEMENT
 STATEMENT**
 20 A.G. Spanos Construction, Inc.; et al.,) Date: April 9, 2008
 21 Defendants.) Time: 2:30 p.m. (PDT)
 22) Courtroom: 3 (Telephonic)

1 The parties in the above-entitled action jointly submit this Joint Case Management
2 Statement and Proposed Order and request the Court to adopt it as its Case Management Order in this
3 action. Plaintiffs are represented by Relman & Dane PLLC. A.G. Spanos Construction, Inc., A.G.
4 Spanos Development, Inc., A.G. Spanos Land Company, Inc., A.G. Spanos Management, Inc. and The
5 Spanos Corporation (hereinafter, the “Spanos Defendants”) are represented by Freeman, D’Aiuto, Pierce,
6 Gurev, Keeling & Wolf, PLC. Knickerbocker Properties, Inc. XXXVIII (hereinafter, “Knickerbocker”)
7 is represented by Allen Matkins Leck Gamble Mallory & Natsis LLP. Highpointe Village, L.P.
8 (hereinafter, “Highpointe”) is represented by Manatt, Phelps & Phillips, LLP. Collectively,
9 Knickerbocker and Highpointe are referred to as the “Owner Defendants.”

10

11 **1. Jurisdiction and Service:**

12 The Court has subject matter jurisdiction over plaintiffs’ claims herein under 28 U.S.C. §§1331
13 and 1332, and 42 U.S.C. §3613(a). Further, the Court may exercise personal jurisdiction over the
14 Spanos Defendants and the Owner Defendants. All of these Defendants have been served. Venue is
15 proper in this district as Defendants either reside in this district or have property in the district with
16 alleged violations giving rise to the claims in this action.

17

18 **2. Facts:**

19 Plaintiffs allege that the Spanos Defendants are liable for the design and construction of at least
20 10,000 units in 82 apartment complexes that do not meet the accessibility requirements of the federal Fair
21 Housing Act (hereinafter, “FHA”), 42 U.S.C. §3604(f), and therefore make them inaccessible to people
22 with disabilities. Plaintiffs are fair housing agencies who claim that their missions have been frustrated by
23 these alleged violations of the FHA and who claim to have had to divert resources from other objectives
24 in order to combat these alleged violations.

25

26 **3. Legal Issues:**

27 Plaintiffs allege that the Spanos Defendants have, in failing to design and construct accessible
28 apartment units and common areas, violated 42 U.S.C. §§3604(f)(1), 3604(f)(2) and 3604(f)(3)(C).

1 Through their pending motions (see Paragraph 4, below), Defendants contend that Plaintiffs lack standing
2 to bring claims under the FHA, that Plaintiffs have failed to state a cause of action or claim for injunctive
3 relief, and that claims with respect to certain apartment complexes are time-barred. In addition, the
4 Spanos Defendants contend that Plaintiffs have failed to join certain parties that the Spanos Defendants
5 contend are required under Fed.R.Civ.P. 19.

6

7 **4. Motions:**

8 On December 21, 2007, the Spanos Defendants filed four motions with the Court. These include
9 (1) a Motion to Dismiss Plaintiff's First Amended Complaint or, Alternatively, for Partial Dismissal of
10 Plaintiff's First Amended Complaint [Doc. 48; Memorandum, Doc. 48-3]; (2) a Motion for More Definite
11 Statement [Doc. 50; Memorandum, Doc 50-2]; (3) a Motion to Dismiss Plaintiffs' First Amended
12 Complaint for Failure to Join Necessary and/or Indispensable Parties [Doc. 49; Memorandum, Doc. 49-
13 3]; and (4) a Motion to Strike Various Claims for Relief [Doc. 52; Memorandum, Doc. 52-2]. All four
14 have been fully briefed and are pending before the Court.

15 On December 21, 2007, Knickerbocker and Highpointe both filed Motions to Dismiss pursuant to
16 Fed.R.Civ.P. 12(b)(6). These motions have been fully briefed and are pending before the Court. As
17 alternative relief, Knickerbocker has asked that this case be stayed pending the Ninth Circuit's decision in
18 *Garcia v. Brockway* (in which *en banc* argument is set for March 25, 2008).

19

20 **5. Amendment of Pleadings:**

21 The initial complaint herein was filed on June 20, 2007 and the First Amended Complaint was
22 filed on October 12, 2007. While not anticipating the need to further amend the pleadings, Plaintiffs
23 reserve the right to do so in response to facts learned in discovery, and to do so by August 1, 2008.

24

25

26

27 **6. Evidence Preservation:**

28 The parties jointly represent to the Court that they have taken appropriate steps to preserve

1 evidence relevant to the issues reasonably evident in this action, including interdiction of any document-
2 destruction program and any ongoing erasures of e-mails, voice mails, and other electronically stored
3 information.

4

5 **7. Disclosures:**

6 The parties have not yet made initial disclosures. They will do so within 30 days of the Court's
7 ruling on the pending motions.

8

9 **8. Discovery:**

10 To date, no discovery has been propounded.

11 LIMITATIONS:

- 12 • Depositions: 15 per side
13 • Interrogatories: 100 per side
14 • Requests for Admission: 100 per side

15 The parties also agree that the party serving written discovery will also send opposing counsel the
16 discovery requests through a computer-readable format (e.g. email or CD) to facilitate compliance with
17 Local Rule 33-1. Initial disclosure documents and documents submitted in response to discovery requests
18 will be Bates-stamped, with the prefixes indicated below, and starting at 00001:

- 19 • Plaintiffs (when responding collectively) PL
20 • National Fair Housing Alliance: NFHA
21 • Fair Housing of Marin FHOM
22 • Fair Housing Napa Valley FHNV
23 • Metro Fair Housing MFH
24 • Fair Housing Continuum FHC
25 • A.G. Spanos Defendants (when responding collectively) DEF
26 • A.G. Spanos Construction, Inc. AGSC
27 • A.G. Spanos Development, Inc. AGSD
28 • A.G. Spanos Land Company, Inc AGSL

- | | |
|--|------|
| 1 • A.G. Spanos Management, Inc. | AGSM |
| 2 • Knickerbocker | KN |
| 3 • Highpointe | HP |

4

5. **Class Actions:**

6 The First Amended Complaint pleads a defendant class action, and names two putative class
 7 representatives. Plaintiffs anticipate taking discovery on the class certification issues, and will file their
 8 motion for class certification within 120 days of the Court's ruling on the pending motions.

9

10. **Related Cases:**

11 There are no related cases.

12

13. **Relief:**

14 Plaintiffs seek declaratory and injunctive relief with respect to the Spanos Defendants, as well as
 15 compensatory and punitive damages, attorneys' fees, costs and such other relief as this Court deems just
 16 and proper.

17 Plaintiffs seek a declaration that the Spanos Defendants have violated the FHA with respect to
 18 their failure to design and construct apartment units and common areas so they are accessible to people
 19 with disabilities. Plaintiffs also seek an injunction prohibiting the Spanos Defendants from: (1)
 20 constructing any covered multifamily housing and/or common areas that, in any way, fail to comply with
 21 the FHA and the applicable regulations, including the acquisition of any building or construction permits,
 22 or certificates of occupancy; (2) selling any building containing a covered unit until the entry of final relief
 23 herein, or until the completion of such retrofit alteration to covered units as may be ordered by the Court;
 24 (3) failing or refusing to bring the covered dwelling units and the public-use and common-use areas at the
 25 Tested Properties into compliance with the FHA and applicable regulations; (4) failing or refusing to
 26 design and construct any covered multifamily dwellings in the future in compliance with the FHA and
 27 applicable regulations. Plaintiffs also seek injunctive relief requiring the Spanos Defendants to: (5)
 28 survey each and every apartment community containing covered units and appurtenant common and

1 public use areas for which any of them had a role in the design and construction since March 13, 1991,
2 and to assess the compliance of each with the accessibility requirements of the FHA; (6) report to the
3 Court the extent of noncompliance of these properties with the FHA; and (7) bring each and every
4 apartment community into compliance with the FHA and applicable regulations.

5 Plaintiffs seek compensatory and punitive damages as are proper under law. The precise amount
6 of these damages (and attorneys' fees and costs) cannot now be ascertained.

7 Plaintiffs also seek injunctive relief, including appropriate fees and costs against the current
8 owners of the 82 properties that Plaintiffs allege are FHA-noncompliant (for whom Plaintiffs seek to
9 certify Knickerbocker and Highpointe as defendant class representatives), requiring them to permit the
10 retrofits ordered by the Court to be made in their respective properties, to comply with such procedures
11 for inspection and certifications of the retrofits performed as may be ordered by the Court, and to
12 perform or allow such other acts as may be necessary to effectuate any judgment against the Spanos
13 Defendants.

14

15 **12. Settlement and ADR:**

16 While the parties have cooperated with the Court's ADR office in conducting preliminary
17 discussions, the parties believe that they must commence discovery before they can assess the likelihood
18 that a resolution might be negotiated.

19

20 **13. Consent to Magistrate Judge For All Purposes:**

21 Not all parties consent to a magistrate judge.

22

23 **14. Other References:**

24 The parties believe this case is not suitable for reference to binding arbitration, a special master, or
25 the Judicial Panel on Multidistrict Litigation.

26

27 **15. Narrowing of Issues:**

28 The issues to be tried may be narrowed by the pending motions. The presentation of evidence at

1 trial may be expedited by comprehensive surveys of each apartment complex by the parties' experts, the
2 summary reports derived therefrom and attempts by the parties to stipulate to the compliance or
3 noncompliance of elements at each such apartment complex.

4

5 **16. Expedited Schedule:**

6 Because of the factual complexity of this case, the parties do not believe it is the type of case that
7 can be handled on an expedited basis with streamlined procedures.

8

9 **17. Scheduling:**

10 Factual discovery cut-off: April 1, 2009.

11 Expert disclosure: July 1, 2009

12 Rebuttal expert disclosure: September 1, 2009

13 Expert discovery cut-off: November 1, 2009

14 Last hearing date for dispositive motions: February 15, 2010

15 Pretrial conference: April 1, 2010

16 Trial: May 1, 2010

17

18 **18. Trial:**

19 Plaintiffs have demanded a jury trial. Defendants believe Plaintiffs' equitable claims should be
20 tried to the Court. The length of trial proceedings will depend to such a degree on events yet to occur
21 that the parties believe it may be impossible to meaningfully estimate the length of such a trial.

22 **19. Disclosure of Non-party Interested Entities or Persons:**

23 All parties have filed their respective Certifications of Interested Entities or Persons required by
24 Civil Local Rule 3-16.

25 Plaintiffs certify that no persons, firms, partnerships, corporations (including parent corporations)
26 or other entities known by them have either a financial interest in the subject matter in controversy or in a
27 party to the proceeding; or any other kind of interest that could be substantially affected by the outcome
28 of the proceeding.

1 **20. Other Matters:**

2 As of the filing of the Joint Case Management Statement, the parties are unaware of other matters
3 that may facilitate the just, speedy and inexpensive disposition of this matter.

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2 Dated: March 21, 2008
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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this the 21st day of March 2008, I filed the foregoing Joint Case Management Statement with the Court's ECF System, which sent electronic notice to:

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